

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION, YOUNGSTOWN**

<b>ANDREW ERDOS, DAVID ANDERSON, and VALLEY VIEW MHP LLC, individually and on behalf of all others similarly situated,</b>	:	<b>CASE NO.: 4:23-cv-00268</b>
	:	
<b>Plaintiffs,</b>	:	<b>Judge Benita Y. Pearson</b>
	:	
<b>v.</b>	:	<b>Magistrate Judge Amanda M. Knapp</b>
	:	
<b>NORFOLK SOUTHERN CORPORATION, NORFOLK SOUTHERN RAILWAY COMPANY, JOHN DOE(S) 1-20, and ABC CORP(S). 1-20.</b>	:	<b>JOINT NOTICE REGARDING PLAINTIFFS' MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION RELATED TO INSPECTION AND COLLECTION OF EVIDENCE</b>
	:	
<b>Defendants.</b>	:	

Before, during and after the February 27, 2023 hearings on Plaintiffs' Motion for Temporary Restraining Order and Preliminary Injunction, the parties worked together in good faith toward a resolution. In accordance with the Court's order, the parties hereby file the following Joint Notice of agreement as it relates to the inspection and collection of evidence as to the remaining nine railcars at the derailment site.

The parties agree to the following:

1. As to the five vinyl chloride railcars, Defendants will make those railcars available for inspection onsite on February 28, March 1, and March 2, 2023, after which time those railcars will be cut, scrapped and removed from the site. If during the inspection period of February 28<sup>th</sup> through March 2<sup>nd</sup> there are discrete pieces of any of these five cars that are identified for further

inspection and/or testing, Norfolk Southern will preserve those identified discrete pieces for further inspection and/or testing off site. The method of preservation will be negotiated between the parties should any discrete parts be identified for further preservation and inspection.

2. As to the one isobutylene residue railcar, Defendants will make that car available for inspection onsite on February 28, March 1, and March 2, 2023. After that time period, the isobutylene residue railcar will be transported to Texas where it will be cleaned and purged, and then preserved for later inspection. Should Plaintiffs' experts need additional time for inspection of this railcar beyond March 2, 2023, for any reason, such inspection will be done in Texas. If during the inspection of this railcar (either onsite or in Texas), there are discrete pieces of this car identified for further inspection and/or testing, Norfolk Southern is willing to preserve those identified discrete pieces, once transported to Texas and available for inspection, for further inspection and/or testing off site. The method of preservation will be negotiated between the parties should any discrete parts be identified for further preservation and inspection.

3. As to the remaining three railcars, Defendants will make those cars available for inspection onsite on February 28, March 1, and March 2, 2023. If inspection of such railcars cannot occur or be completed during this time, these three cars will be moved to an offsite location near the derailment site for inspection and/or further inspection. If during the inspection there are discrete pieces of any of these three remaining cars that are identified for further inspection and/or testing, Norfolk Southern is willing to preserve those identified discrete pieces for further inspection and/or testing off site. The method of preservation will be negotiated between the parties should any discrete parts be identified for further preservation and inspection.

4. The parties have agreed that none of the cutting, scrapping, and/or removal of any of these railcars will begin until after Plaintiffs' experts have had an opportunity to inspect/test them on February 28, March 1, and March 2, 2023.

5. Should any disagreement or issues arise with respect to this agreement, the parties will address them with this Honorable Court on March 1, 2023, at 12:00 pm, or as the Court may reschedule. In the event that such is necessary, the parties agree that no destruction of any railcar shall commence until further direction of this Court, or agreement of the parties.

It is so ordered.

Date \_\_\_\_\_

\_\_\_\_\_  
Benita Y. Pearson  
United States District Judge

Respectfully submitted,

s/ Melanie S. Bailey  
Melanie. S. Bailey (OH 0075821)  
David C. Harman (OH 0087882)  
**BURG SIMPSON ELDREDGE**  
**HERSH & JARDINE, P.C.**  
201 East Fifth Street, Suite 1340  
Cincinnati, OH 45202

513-852-5600  
513-852-5611 (fax)  
mbailey@burgsimpson.com  
dharman@burgsimpson.com

Seth A. Katz  
**BURG SIMPSON ELDREDGE  
HERSH & JARDINE, P.C.**  
40 Inverness Drive East  
Englewood, CO 80112  
303-792-5595  
303-708-0527 (fax)  
skatz@burgsimpson.com

M. Elizabeth Graham, Esq.\*  
Adam J. Gomez, Esq.\*  
Tudor I. Farcas, Esq.\*  
Adam I. Stoltz, Esq.\*  
Caley DeGroote, Esq\*.  
**GRANT & EISENHOFER, P.A.**  
123 S. Justison Street, 6<sup>th</sup> Floor  
Wilmington, DE 19801  
302-622-7000  
302-622-7100 (fax)  
egraham@gelaw.com  
agomez@gelaw.com  
tfarcas@gelaw.com  
astoltz@gelaw.com  
gdegroote@gelaw.com

Douglas J. Olcott, Esq. (OH 0098596)  
**EDGAR SNYDER  
& ASSOCIATES, LLC**  
600 Grant Street, 10<sup>th</sup> Floor  
Pittsburgh, PA 15219  
412-394-4420  
412-391-2386 (fax)  
dolcott@edgarsnyder.com

*Attorneys for the Plaintiffs and  
the Putative Class*

*\*pro hac vice forthcoming*

/s/ J. Lawson Johnston

J. Lawson Johnston

Scott D. Clements

**DICKIE, MCCAMEY & CHILCOTE, P.C.**

Two PPG Place, Suite 400

Pittsburgh, PA 15222

412-281-7272

*Attorneys for Defendants Norfolk Southern  
Corporation and Norfolk Southern Railway  
Company*

**Certificate of Service**

I hereby certify that on February 27, 2023 a copy of foregoing was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. Parties may access this filing through the Court's system.

/ s/ Melanie S. Bailey

Melanie S. Bailey